



Our Ref. No.: 5309P001X

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Dean L. Rhoades

Application No.: 09/802,425

Filed: March 9, 2001

For: COMPOSITION, APPARATUS AND  
METHOD FOR SKIN REJUVENATION

Examiner: Frank I. Chor

Art Unit: 1616

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION PURSUANT TO 37 C.F.R. § 1.131**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, Dean L. Rhoades, hereby declare that:

1. I am a citizen of the United States of America.
2. I currently reside at 2075 N. Beverly Drive, Beverly Hills, California 90210.
3. I am the inventor of the above-identified patent application.
7. I have reviewed U.S. Patent No. 6,290,976 issued to Messenger (the "Messenger"

patent) which was filed on April 6, 2000 and Patent Application Publication No. US 2002/0090385 filed by Fox et al (the "Fox" publication) which was based on a provisional application 60/239,059 filed on October 5, 2000. The Examiner has cited the Messenger patent and Fox publication against the claims of the above-identified application.

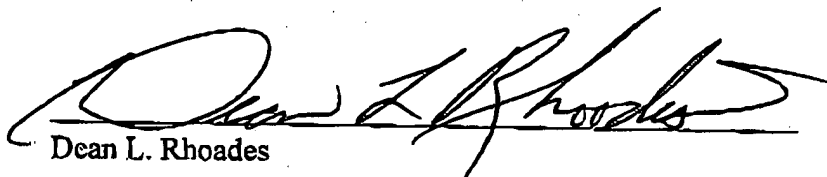
8. The invention disclosed and claimed in the above-identified patent application was reduced to practice in the United States of America at least as early as April 6, 2000, as evidenced by the attached document which is a printout of a digital image (Exhibit A). This document shows an image that was taken at least as early as April 6, 2000. This image shows the claimed composition in labeled and dated containers formulated under my direction. This document demonstrates the reduction to practice of the invention prior to the earliest priority date of Messenger and Fox.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issued thereon.

Respectfully submitted,

Dated:

11-17-03

  
Dean L. Rhoades